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FILE: [REDACTED]
MSC 02 106 64557

Office: NATIONAL BENEFITS CENTER

Date: SEP 05 2008

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director of the Missouri Service Center. The matter was appealed to the Administrative Appeals Office (AAO), which remanded the application to the director for further consideration and action. The director withdrew his initial decision, denied the application again, and certified the case for review to the Chief, AAO. The director's decision will be affirmed.

The director determined that the applicant failed to establish that he had applied for class membership in one of the requisite legalization class action lawsuits prior to October 1, 2000, as required under section 1104(b) of the LIFE Act.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in one of the following legalization class action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("CSS"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("LULAC"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

The regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for class membership before October 1, 2000. See 8 C.F.R. § 245a.14.

When the applicant filed for legalization under the LIFE Act on January 14, 2002, the record did not include any evidence that he had filed a written claim for class membership in CSS, LULAC, or Zambrano. In a Notice of Intent to Deny (NOID), dated February 5, 2002, the director advised the applicant to submit within 30 days "any documentation or evidence received from the Service" which shows that he applied for class membership in one of the legalization class action lawsuits before October 1, 2000.

The applicant responded with a letter asserting that he applied for class membership in the CSS class action lawsuit. The letter was accompanied by photocopies of several documents to prove his class membership application – including a personal affidavit dated November 20, 1990, a Form I-690 dated November 20, 1990, and a notice to the applicant, dated November 28, 1990, scheduling an interview at the Immigration and Naturalization Service (INS) office in Hialeah, Florida, on April 25, 1991.

On September 4, 2002, the director issued a Notice of Decision denying the application for LIFE legalization. The director stated that a previous application under the Special Agricultural Workers (SAW) program, filed pursuant to section 210 of the Immigration and Nationality Act, rendered the applicant statutorily ineligible to adjust status under section 245 of the Act. The director also stated that the evidence submitted by the applicant did not establish that he applied for class membership in one of the legalization class action lawsuits.

The applicant filed a timely appeal, stating that he entered the United States in June 1980, acknowledging that he filed a SAW application in 1988 (which was denied in 1992), and asserting that he also applied for membership in the CSS legalization class action lawsuit in Hialeah, Florida, in 1990. The applicant submitted several items of documentation, none of which related to his claim to have applied for class membership in CSS.

On April 16, 2003, the AAO remanded the case to the director. The AAO noted that the director had not analyzed the documentation submitted by the applicant as evidence of his claim for class membership in CSS, was legally incorrect in finding that the applicant's SAW filing in 1988 made him statutorily ineligible to adjust status under the LIFE Act, and had not explored whether a written claim for class membership in CSS might have been filed by the applicant's wife, through whom he could benefit as a derivative alien.

On September 27, 2005, the director issued a new decision in which he withdrew his previous decision of September 4, 2002, denied the application for LIFE legalization once again, and certified the case for review to the Chief, AAO.

In his new decision the director analyzed in detail the documentation submitted by the applicant in response to the NOID and concluded that the materials were not bona fide. The director also reviewed Service records and found no evidence therein that the applicant, or the applicant's wife, [REDACTED] had filed a written claim for class membership in one of the class action lawsuits – CSS, LULAC, or Zambrano – before October 1, 2000. In addition, the director reviewed every other document in the applicant's file and found that none constituted a written claim for class membership in one of the legalization class action lawsuits, within the ambit of 8 C.F.R. § 245a.14.

In certifying the case to the AAO for review, the director gave the applicant 30 days to submit a brief or written statement to the AAO. No such materials were submitted within 30 days, and none have been submitted thereafter.

The AAO has reviewed the director's decision and finds it well reasoned and thorough. As the applicant has not responded to the decision in any manner, the AAO concurs with the director's conclusion that the applicant has not established that he filed a claim for class membership in CSS, or either of the other legalization class action lawsuits, before October 1, 2000. Accordingly, the applicant is not eligible for adjustment to permanent resident status under the LIFE Act.

ORDER: The director's decision of September 27, 2005 is affirmed. The appeal is dismissed. This decision constitutes a final notice of ineligibility.